REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 3, 6 and 21 are requested to be canceled without prejudice or disclaimer.

Claims 1, 4-5, 7-9, 11-13, 19, 22, 26, 28, 30 and 37 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-2, 4-5, 7-20 and 22-37 are now pending in this application.

Claims 1-4, 7-16, 18-22, 24-33 and 35-37 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,796,082 to Ostermann (hereinafter "Ostermann") in view of U.S. Patent No. 7,284,187 to Corboy (hereinafter "Corboy"). Applicant respectfully traverses this rejection for at least the following reasons.

Embodiments of the present invention relate to streaming content in a multimedia messaging service (MMS), such as in a mobile MMS. In accordance with embodiments of the present invention, a network entity, such as a server, receives a multimedia message that contains a video and/or audio component that is formatted according to a video and/or audio media format, respectively. Accordingly, embodiments of the present invention relate to multimedia messages which may contain both streamable and non-streamable content. Specification paragraphs [0059], [0061], [0091] and [0109].

In accordance with various embodiments, a notification message is received and, based on the receipt of the notification message, a multimedia message may be retrieved. A descriptor separated from the multimedia message contains information necessary to initiate a streaming session, including a pointer to session description data. The session description data is used to initiate a streaming session to retrieve by streaming the stored streamable

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media component described by the descriptor.

Thus, in accordance with embodiments of the present invention, two messages may be received: (1) a notification message and (2) the multimedia message. It is the multimedia message which includes the descriptor and information necessary to initiate the streaming session.

By sharp contrast, as interpreted by the Examiner, Ostermann discloses a descriptor which is included in the notification message. In accordance with the disclosure of Ostermann, a sender sends a text message to a server, along with a selection of an animated entity. See Ostermann, col. 9, lines 20-24. The server composes a multimedia message using the text and the selected animated entity "such that it appears to the recipient that the animated entity is speaking the text message." Ostermann, col. 9, lines 24-30. The composed message is stored on the server, and a message including a link to the stored message is transmitted to the recipient (step 106 of Figure 7 of Ostermann). Ostermann, col. 9, lines 30-33. Upon an action, such as clicking on the link, by the recipient, the stored message is streamed to the recipient (step 108 of Figure 7 of Ostermann). Ostermann, col. 9, lines 33-37.

In one interpretation, Ostermann discloses receipt by the recipient of two messages: (1) a notification message (step 106 of Figure 7) and (2) the multimedia message (step 108 of Figure 7). In this regard, Ostermann may be interpreted as disclosing that the descriptor is included in the notification message (step 106 of Figure 7), not in the multimedia message (step 108 of Figure 7).

In an alternative interpretation of the disclosure of Ostermann, the message of step 106 of Figure 7 corresponds to the multimedia message of the pending claims, and step 108 of Figure 7 corresponds to the initiation of the streaming session of the pending claims. If the disclosure of Ostermann is interpreted in this manner, there is no notification message.

In either interpretation, Ostermann fails to teach or suggest at least one feature of the pending claims.

Further, Ostermann fails to teach or suggest a retrieve request being sent by the user agent in response the notification message, as recited in the pending claims. Ostermann recites an email containing a link to the streamable portion of a message. As noted above, the system of Ostermann does not use a notification message. Instead, the link appears within the message itself. Since the message has already been received, the link cannot be interpreted as a request to receive the message.

Further, Ostermann fails to teach or suggest session description data, as recited in the pending claims. The Examiner cites the claimed feature as being disclosed by Ostermann as "streaming sessions, see col. 10 line 59 to col. 11, line 53." Office Action dated December 30, 2008, page 3. However, the cited portion of Ostermann are completely silent as to session description data. Further, no other portion of Ostermann relates to this feature. Accordingly, Ostermann fails to teach or suggest "session description data," let alone obtaining the session description data using the pointer.

As again acknowledged by the Examiner, Ostermann fails to teach or suggest separating a non-streamable media component from the multimedia message transmission. See Office Action dated December 30, 2008. The Examiner now cites Corboy as allegedly disclosing this feature. Applicant respectfully disagrees with the Examiner's interpretation of the disclosure of Corboy.

Corboy relates to producing and multiplexing a file format and is unrelated to multimedia messaging with separation of the non-streamable and streamable components. Corboy discloses supplying partial viewing of the streamable multiplexed message while the file is forming and/or downloaded. Accordingly, in accordance with the disclosure of Corboy, if documents are attached in a multimedia messaging system, the attachment of the document to the multimedia message is performed by forming as one media component since Corboy discloses multiplexing of the files. Therefore, Corboy fails to teach or suggest separation of components.

Further, Corboy fails to cure the above-noted deficiencies of Ostermann. Thus, since the cited references, either alone or in combination, fail to teach or suggest at least the above-

noted features of the pending claims, the Office Action fails to establish a *prima facie* case of obviousness.

Further, as noted by the U.S. Supreme Court, when looking at the teachings of multiple references, it is to be determined:

> … whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis should be made explicit.

KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727 (2007).

In the present case, there would be no such "apparent reason" to combine the teachings of Ostermann with those of Corboy to achieve the claimed invention. Ostermann discloses providing a talking animation through a link provided in the textual data transmission. Ostermann fails to teach or suggest another file type in the transmission. On the other hand, Corboy discloses multiplexing multimedia in a variety of data formats. One skilled in the art would have no "apparent reason" to modify the disclosure of Ostermann with the teachings of Corboy to achieve the features of the claimed invention.

For at least the above reasons, independent claims 1, 9, 19, 26, 28, 36 and 37 are patentable. Claims 2, 4, 7-8, 10-16, 18, 20, 22, 24-25, 27, 29-33 and 35 each depend, either directly or indirectly, from one of independent claims 1, 9, 19, 26, 28, 36 or 37 and are, therefore, patentable for at least that reason, as well as for other patentable features when those claims are considered as a whole.

Further, Claims 5, 17, 23 and 34 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ostermann in view of Corboy and further in view of U.S. Patent Publication No. 20020027562 to Kimble. Claims 5, 17, 23 and 34 each depend from one of allowable claims 1, 9, 19 or 28 and are, therefore, patentable for at least that reason, as well as for other patentable features when those claims are considered as a whole.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

<div align="right">Respectfully submitted,</div>

Date <u>30 March 2009</u>　　　　　　　　　　By 　<u>/G. Peter Albert, Jr./</u>

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